



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/710,454

07/13/2004

Robert M. Schmidt

04923 (LC 0159 PUS)

4453

36014

7590

04/14/2009

Dickinson Wright PLLLC

38525 Woodward Avenue, Suite 2000

Bloomfield Hills, MI 48304-5092

EXAMINER

FULTON, KRISTINA ROSE

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

04/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,454	<b>Applicant(s)</b> SCHMIDT ET AL.	
	<b>Examiner</b> KRISTINA R. FULTON	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,8-13,16,17 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 4,8,12 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,9-11,13, 17, 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is in response to the RCE filed 1/13/09. Claims 1, 4-5, 8-13, 16-17 and 21 are pending. Claims 4, 8, 12 and 16 are withdrawn. Claims 2-3, 6-7, 14-15 and 18-20 are cancelled.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 1, the last line requires the limitation "such that a controller can authorized entry...". It is unclear if applicant intends to positively recite the controller. Currently, as claimed, the limitation merely requires the prior art be capable of using a controller. A controller is never positively recited. Further, the use of the word "can" is indefinite as it is unclear if the controller does or does not authorize entry. The word "can" merely means "capable of".

4. Regarding claim 9, the "open" position should be further clarified. It is unclear if the switch is open or if the handle is biased to an open position. Further functional limitations should be given to describe the "open" position. As claimed any position can be considered "open".

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

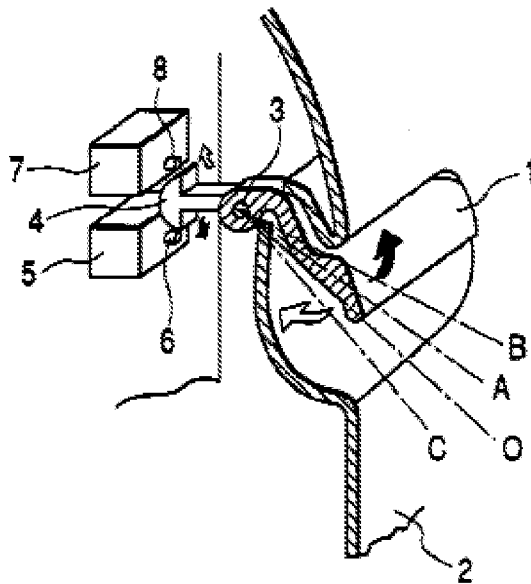
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

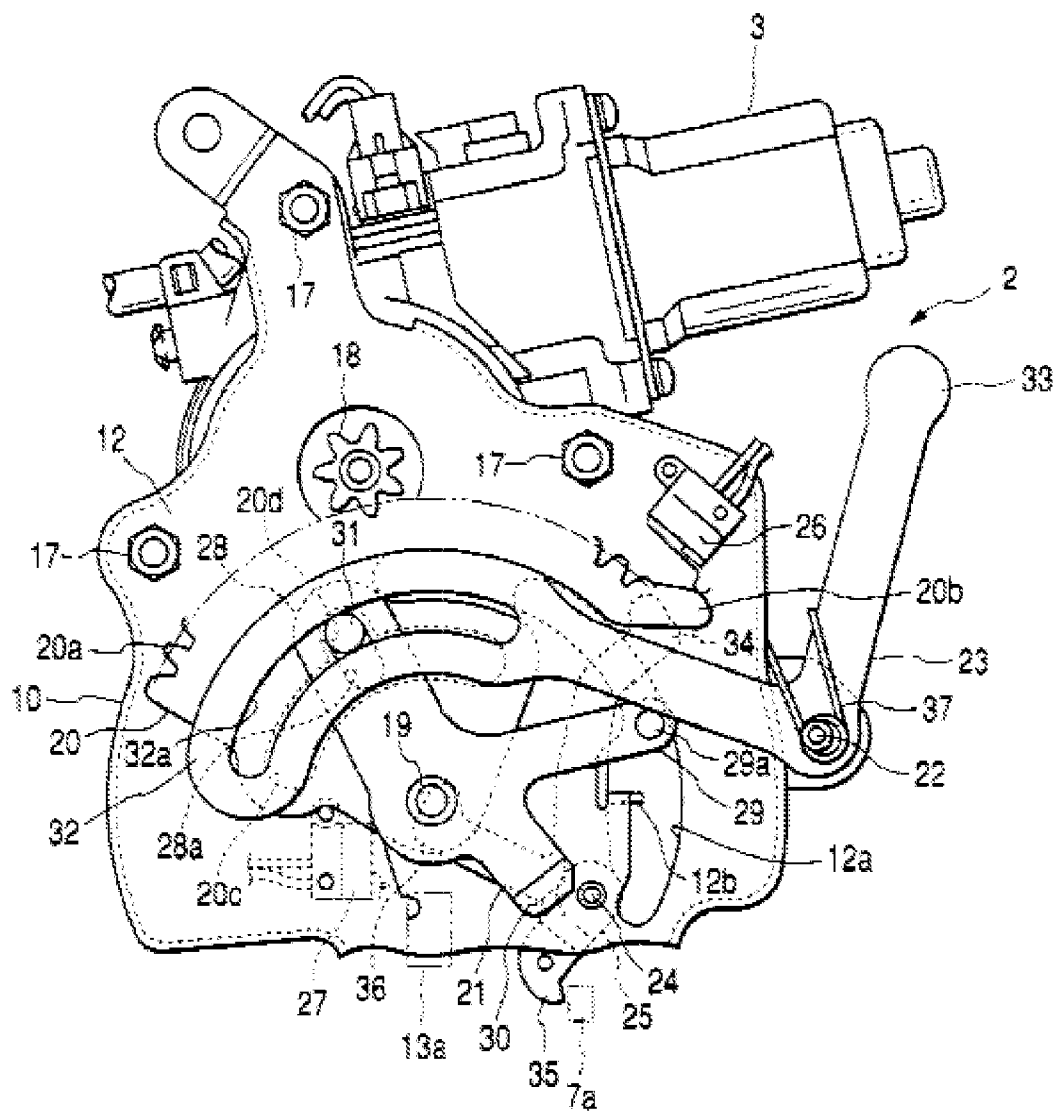
Art Unit: 3673

4. Claims 1, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (US 2004/0183655) and Takamura (US 6499776) and further in view of Bella (US 6367124).

5. Regarding claim 1, Takata teaches a mechanical handle switch assembly integrated within a door of a vehicle and utilized for actuating a vehicle based system, comprising a door handle mechanism (1) coupled to a the door for actuation by a user, being movable in a substantially outboard direction for both actuating the vehicle based system and unlatching the door, a drive train mechanism (4) coupled to said door handle mechanism and being actuated by said door handle mechanism; a switch device (5) operatively coupled to said drive train mechanism and being selectively operated by said drive train mechanism to actuate said vehicle-based system. Further, Takata shows the door handle mechanism is movable within a predetermined travel distance, said predetermined travel distance including a switch-triggering distance (O-A) and an unlatching distance (O-B) that is greater than and inclusive of said switch-triggering distance (see figure below), said door handle mechanism being moved by said switch-triggering distance for actuating said switch device, said door handle mechanism being moved by said unlatching distance for unlatching the door, said unlatching distance sized greater than said witch triggering distance such that a controller can authorize entry prior to said door handle mechanism unlatching the door. See the Takata device below.



Takata fails to show a drive train mechanism including a first and second gear member, a cam mechanism or a damping mechanism. Takamura and Bella show these features to be well known in the vehicle latch art. Takamura shows a first gear (18) extending, a second gear member (20) operatively coupled to the first gear member and a cam mechanism (20b) integrated with the second gear member and directly contacting a switch device (26). It would have been obvious to one of ordinary skill in the art to replace the drive mechanism of Takata with the drive mechanism of Takamura since replacing one known element with a functional equivalent is considered to be within the level of basic knowledge of a worker in the art. Replacing the Takata drive mechanism with any drive mechanism to translate motion from the handle to the switch would be considered an obvious modification and would yield predictable results as the drive mechanism functions in the Takamura device to relay motion to the switch as necessary in the Takata device. See the Takamura device below.



Takata and Takamura fail to include a dampening mechanism. Bella teaches that dampening mechanisms are extremely well known in the vehicle latch art (column 1, lines 14-20). It would have been obvious to one of ordinary skill in the art to include a dampening mechanism on the Takata device in order to “dampen the strong...force of the door handle...” (column 1, lines 14-20).

6. Regarding claim 5, the door handle mechanism of Takata has a lift configuration for unlatching the door. See figure above.

7. Regarding claim 9, Takata teaches a mechanical door handle switch assembly wherein said switch device is biased to an open position (paragraph [0025] teaches the handle is biased to the normal position. In this position the switch is “open”).

8. Claims 10-11, 13, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (US 2004/0183655), Takamura (US 6499776) and Bella (US 6367124) as applied to claim 1 above and further in view of Geil et al (US 6181024).

9. Regarding claim 10, Takata, Takamura and Bella teach a passively actuated vehicle system comprising a mechanical handle assembly as applied to claim 1 above, Takata further teaches a controller (i.e. vehicle mounted unit, paragraph [0026]), a portable transponder (i.e. the portable unit, paragraph [0026]) carried by a user and utilized for communicating with said vehicle based transponder, a locking mechanism (i.e. door locking mechanism, paragraph [0026]) coupled to said controller for actuation by said controller, said switch device coupled to one of said controller and said vehicle-based transceiver, and in use actuating said vehicle-based transceiver to transmit a challenge signal to said portable transponder; said locking mechanism unlocking said door after said controller determines that said user is an authorized entity. Takata fails to teach a vehicle-based transceiver coupled to said controller. Geil shows that it is known in the mechanical door handle switch assembly art to construct a device for unlocking a door including a switch (2) coupled to one of a controller (4) and a vehicle-based transceiver (3), and wherein the switch device for actuating said vehicle-based



Art Unit: 3673

transceiver to transmits a challenge signal to said portable transponder. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Takata's assembly as taught by Geil, since Geil states in column 1, lines 60-65 that retrofitting a locking system with a transmitter and transponder is simple and advantageous. Please note that because the unlatching distance is greater than the switch triggering distance, the controller could inherently authorize entry prior to the door mechanism unlatching the door.

10. Regarding claim 11, Takata shows a switch triggering distance substantially less than the unlatching distance (as described in claim 1 above).

11. Regarding claim 13, Takata teaches a door handle mechanism having a lift configuration for unlatching the door as applied to claim 5 above.

12. Regarding claim 17, Takata shows a switch device biased to an open position as applied to claim 9 above.

13. Regarding claim 21, Takata shows a passively actuated vehicle system wherein the passively actuated vehicle system is a passive entry system for a vehicle.

### ***Response to Arguments***

Applicant's sole argument that the prior art does not teach a gear mechanism in combination with a cam and switch assembly where the cam activates the switch has been considered but is moot in view of the new ground(s) of rejection.

### ***Conclusion***

Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINA R. FULTON whose telephone number is (571)272-7376. The examiner can normally be reached on M-TH 7-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KRISTINA R FULTON/  
Examiner, Art Unit 3673  
4/11/09